

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: W.D. Cows, Inc. c/o Sarah LaCour

Date application filed with the Town Clerk: May 28, 2009

Nature of request: Request for Special Permit to install an over-sized information and directional sign for the North Amherst Village Center, under Section 8.41 and 8.23 of the Zoning Bylaw

Address: Sunderland Road (Map 5A, Parcel 131, LI Zoning District)

Legal notice: Published on June 10 and June 17, 2009 in the Daily Hampshire Gazette and sent to abutters on June 8, 2009

Board members: Tom Simpson, Hilda Greenbaum, Albert Woodhull

Submissions:

- One (1) copy of a Memorandum, ZBA FY2009-00038, dated June 19, 2009;
- One (1) copy of the ZBA application, filed with the Town Clerk on May 28, 2009;
- One (1) copy of a completed Management Plan form;
- One (1) copy of a project summary;
- One (1) copy of a Location Plan, dated May 2009;
- One (1) copy of detail of the sign location, dated May 2009;
- One (1) copy of a color rendered sign plan, dated May 2009;
- One (1) copy of a photograph showing the proposed sign location approximately at the 20 foot required setback;
- One (1) copy of a photograph showing an alternate sign location approximately at the property line;
- One (1) copy of a Town GIS map showing the Zoning District boundaries, submitted by staff.

Site Visit: June 22, 2009

Hilda Greenbaum and Albert Woodhull met Sarah LaCour of W.D. Cows at the site. Tom Simpson viewed the site separately.

The following was observed:

- The location of the property situated on the west side of the south bound lane of Route 116 (Sunderland Road) approximately 800 feet north of the intersection of Route 63 (Meadow Street);

- The vacant, approximately 1 acre parcel, currently used for agricultural purposes located in the Light Industrial Zoning District containing a vegetated border of sumac along its eastern edge (closest to Route 116);
- The east property boundary located approximately 90 feet from the edge of pavement of Route 116;
- The area approximately 90 feet from the edge of the road to the property line is the right-of-way owned by Mass Highway;
- The location of several survey flags placed in an existing row of sumac vegetation indicating the approximate location of the proposed sign with active farmland to the west;
- The existing Mass Highway signs for the intersection of Route 63 in close proximity to the area of the proposed sign.

Public Hearing: June 25, 2009

Sarah LaCour, the representative from W.D. Cows, Inc., presented the application.

Ms. LaCour stated the following:

- She is the Director of Conservation and Planning for W.D. Cows located in South Amherst;
- They are proposing to design, build and install an informational and directional sign for the North Amherst Center;
- They are seeking a Special Permit for an over-sized informational and directional sign;
- The goal of the sign is to inform passing motorists of, and direct them to, the various destinations found in the North Amherst Center area including shops, library, post office and UMass;
- W.D. Cows is active in trying to bring attention to the benefits of utilizing local businesses and services;
- The concept for the sign was a result of discussions with the Chamber of Commerce as a way to help take traffic off the highway and into the North Amherst Center;
- The sign is proposed to be sited on a vacant 1 acre parcel owned by W.D. Cows;
- They have discussed the sign concept with representatives from Mass Highway and were informed that Mass Highway would not allow the sign to be located in the 90 foot right-of-way that they own between the edge of Route 116 and the property owned by W.D. Cows;
- They have prepared and provided several maps and designs showing the proposed location of the sign;
- The sign would be installed within an area where a stand of sumac is currently located and would involve the removal of some of the sumac in order for the sign to be located on or near the property line;
- The visibility of the sign is a concern because they are not allowed to place the sign closer to the edge of Route 116 due to the existence of the Mass Highway right-of-way;
- The proposal included two possible locations. The first is to have the sign situated 20 feet west of the existing property line in and the second is to have the sign situated on the property line;
- The Zoning Bylaw dictates the size of signs allowed relative to how far they are set back from the property line;

- The original design shows the sign located 20 feet from the property line. In this location, the sign is 20 sq. ft. larger than would be allowed due to the fact the size of the sign includes the actual sign panel in addition to any open areas below the sign panel and between the support posts. Because the sign is larger than allowed in the Zoning Bylaw, they have to apply for and receive a Special Permit;
- The second proposed location for the sign is to place it on the property line. They are requesting the Board to consider this location because it places the sign as close to the edge of Route 116 as is allowed given the 90 foot MassHighway right-of-way. The location of the sign on the property line would result in a sign that is significantly larger than what would typically be allowed at the property line;
- The sign panel would be constructed of aluminum with a blue background, white lettering and would be supported by 4 x 4 wooden posts;
- The white lettering of the sign would be comprised of reflective materials to aid the sign's visibility at night. There will not be any lighting associated with the sign;
- The sign will state "North Amherst Center" in white lettering approximately 7 inches tall. The sign will contain a large white arrow and will also state "Next Left" and "UMass, Shopping, Dining, Lodging, Post Office, Library" in white lettering approximately 4 – 4.5 inches tall. The sign will also contain Cowls Building Supply lettering and logo at the bottom of the sign;
- The nearby Mass Highway signs indicating the intersection of Route 63 have lettering that is approximately 5-6 inches tall and the proposed sign has been designed to be as visible as those existing signs;
- There will be an approximately 150 sq. ft. landscaped area below the sign, comprised of native grasses. The landscaped area is required as part of the Zoning Bylaw and would be maintained by W.D. Cowls as indicated in the Management Plan;

Ms. Greenbaum asked if passing motorists would be able to see the reflective sign using low-beam headlights.

Ms. LaCour stated that they do expect passing motorists to see the sign in the evening. She noted that W. D. Cowls would determine the most appropriate angle and location for the sign upon installation to position it where it would be most visible. She stated that the sign may not be seen by every passing motorist at all times and that they intend to have it be most visible during the daytime hours.

Mr. Simpson asked how the size of the sign was determined to be 8 feet by 7 feet and 3 feet off the ground.

Ms. LaCour stated originally the size of a sign was measured to include only the sign panel. Under that assumption, the sign was to be 8 feet x 7 feet, or 56 sq. ft., which conformed to the requirements of the Zoning Bylaw if it were placed 20 feet from the property line. She stated that upon review of the preliminary sign design with the Town, they were informed that it was a longstanding interpretation of the regulations that the size of the sign also included the area below it. At that point the total size of the sign for purposes of the regulation was 80 square feet, and would be larger than is allowed without a Special Permit.

She added that the Zoning Bylaw allows for a sign that is 80 sq. ft. on a property containing 300 feet of frontage. The property owned by W.D. Cows, where the sign would be located, has approximately 282 feet of frontage, but W.D. Cows also owns the adjacent property. Therefore, they believed that the request for an oversize sign was reasonable and appropriate for the property. She also noted that the regulations require signs to be smaller as they are located closer to the property line. She stated that it is her understanding that the Board has the ability to allow a larger sign, closer to the property line, as long as it serves the public convenience, will not endanger public safety and will not be detrimental to the neighborhood.

Ms. Greenbaum referenced the submitted photo simulation of the sign and asked how far away the photograph was taken from.

Ms. LaCour stated that she wasn't sure exactly how far the proposed sign would be from where the photograph was taken. She noted that it was taken from the shoulder of the southbound lane and that it was intended to show the scale of the sign in relationship to the area.

Ms. Greenbaum stated that she believed that the sign contained too much information and could be a danger to passing motorists trying to comprehend all of the information. She noted that the sign is proposed to be located far enough off of the edge of road that it could be hard to read and become a distraction.

Ms. LaCour stated that they understand that not everyone may be able to read the sign, but the goal of the sign is to try to raise awareness of passing motorists that the North Amherst Center exists and that there are a variety of shops, etc. located there.

Mr. Simpson stated that he shares the concern of the sign being a potential distraction due to the amount of information it is seeking to convey. He asked whether the applicant knew of any standards that Mass Highway may have for the size of lettering on signs relative to where they are located.

Ms. LaCour stated that she was not aware of any standards, but measured the lettering on the existing Mass Highway sign for the intersection of Route 63 and that their lettering was similar in size and design.

Ms. Weeks stated that the applicant may be able to consider including universal symbols for shopping, dining and post office, for example, which may help to simplify the sign and make it more readable to passing motorists.

Mr. Simpson stated that the Board also has the authority to authorize a larger sign that may allow for a more simplified and more visible sign.

Ms. LaCour stated that they could consider replacing the words with universal symbols and make the sign slightly larger to allow for the sign to be more simple and clear.

The Board members agreed that they would consider a revised sign plan that included a slightly larger sign, with universal symbols, in order to achieve the goals of the sign and to aid in making the sign less of a distraction to passing motorists.

The Board members agreed that the sign could be suitably located on the property line, without causing any detriment to the neighborhood or without endangering the public safety.

Ms. LaCour stated that she would be agreeable to considering a revised design to simplify the sign design.

Mr. Woodhull made a motion to continue the public hearing to Thursday, July 16, 2009 at 8:00 P.M. Ms. Greenbaum seconded the motion and the Board voted to continue the public hearing to Thursday, July 16, 2009 at 8:00 P.M.

Continued Public Hearing: July 16, 2009

Sarah LaCour provided the Board with a revised sign design plan, and photograph rendering. She stated the following:

- The revised sign plan depicts a slightly larger sign containing a series of symbols. The previously proposed sign contained the words “dining, lodging, shopping, post office, and library”, the sign now contains commonly used symbols for each. There are a total of six (6) symbols on the sign.
- The sign panel is now 9 feet wide by 8’6” and is 2’6” off the ground. The previously proposed sign panel was 8 feet by 7 feet and 3 feet off the ground.
- The lettering for “North Amherst Center” and “next left” are 7 ½ inches. The larger lettering on the nearby Mass Highway signs is 6 inches tall.
- The photograph rendering shows that the larger sign with symbols is more visible than the previous design.
- At night, the new design will allow passing motorists to see at least the “North Amherst Center” and the arrow, at a minimum.

Mr. Simpson stated that he drove by the site again and that he believes the sign would be more evident than it appears on the photograph rendering. He stated that a passing motorist’s line of sight would allow the sign to be clearly visible. Mr. Simpson stated that he would like to have the sign be located 20 feet from the property line in order for the proposal to adhere to the Zoning Bylaw as much as possible.

Ms. LaCour stated that she agreed that the sign will be in the line of sight of passing motorist, but argued that the sign would be more appropriately placed on the property line. She added that the 90 foot right of way causes the sign to be far from the road and that it would be easier to read if it were located on the property line.

Mr. Woodhull and Ms. Greenbaum stated that they are agreeable to allowing the sign to be located on the property line. The location would make the sign more easily readable to passing motorists, would not require intrusion into existing farmland and thus not require the farmer to plow and plant around the base of the sign.

Mr. Simpson MOVED to close the public hearing. Ms. Greenbaum seconded the motion and the Board VOTED unanimously to close the public hearing.

Public Meeting:

The Board agreed that the sign could be properly located at the property line and that the sign proposal meets the standards of Section 8.41 to allow for the sign to be larger than normally allowed and closer to the property line than is allowed under the Zoning Bylaw.

The Board discussed and agreed that the Special Permit should expire in a period of five (5) years to allow for consideration of any changes to the character of the neighborhood. The Board determined that the applicant must submit an application for renewal and noted that the process would result in the issuance of a new Special Permit.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses and other uses in the district. The location of the proposal is within the Light Industrial Zoning District and directly adjacent to Route 116, a busy north/south thoroughfare from Hadley to Sunderland. The proposal is compatible with other uses in the area because the sign will be located on a parcel currently being used for agriculture and in an area that does not contain any other commercial or residential uses. The location of the sign is in close proximity to other highway information and directional signs and is in close proximity to Meadow Street, a heavily traveled road which empties into the North Amherst Center.

10.382, 10.383 and 10.385 – The proposal will not constitute a nuisance due to air pollution, lights or visually offensive structures and accessories. The oversized sign will not be illuminated, will not obstruct the view of passing motorists, and is intended to raise awareness of goods and services available in North Amherst.

10.384 - Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The proposal utilizes reflective materials as to eliminate the need for external lighting fixtures. The design of the sign has changed to increase the visibility and clarity of the sign by using symbols rather than words. The location of the sign is as close to Route 116 as possible in order to aid in making the sign more visible to passing motorists. The proposal includes a landscaped area that will be maintained in perpetuity with the sign. The sign is being donated by the applicant in order to help raise awareness of goods and services available in North Amherst.

10.386 – The proposal conforms to the parking and sign regulations of the town. The proposal does not require any parking. The proposal allows for an oversized sign under Section 8.41 of the Zoning Bylaw. The proposal is intended to serve the public convenience because the sign is intended to raise awareness of the goods and services available in North Amherst.

The proposal does not endanger the public safety because it is set back approximately 90 feet from the edge of Route 116 and does not obstruct the view of passing motorists. The size, location and design will not be detrimental to the neighborhood because the sign is suitably sized to contain the desired information, is located on a vacant parcel in the Light Industrial District in close proximity to other informational and directional signs. Additionally, the design has been changed from words to symbols to allow for the sign to be more easily read.

10.387 – The proposal provides convenient and safe movement within the site and in relation to adjacent property. The proposal utilizes reflective materials which are expected to allow passing motorists to see the sign in the dark using vehicle headlights. The sign is allowed to be located at the property line in order to aid in making the sign more visible to passing motorists.

10.391 – The proposal protects, to the extent feasible, unique or important natural, historic or scenic features. The proposal will be located such that minimal areas of vegetation are required to be altered. The location of the sign is adjacent to active farmland and is located as to not disrupt those activities. The location of the sign is in close proximity to other existing highway signs and in close proximity to Meadow Street, which empties into North Amherst.

10.393 -The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because there is no lighting associated with this application.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The proposal properly allows for an oversized informational and directional sign that is intended to raise awareness of the goods and services available in North Amherst. The proposal is in accordance with the intentions of the Town of Amherst to promote and highlight the village centers in Amherst, as identified in the draft Master Plan.

Zoning Board Decision

Mr. Simpson made a motion to APPROVE the application with conditions. Mr. Woodhull seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2009-00038, to allow for the installation of an oversized informational and directional sign, under Section 8.41 of the Zoning Bylaw, at Sunderland Road (Map 5A, Parcel 131, LI Zoning District) as requested in the application of W.D. Cows, Inc., with conditions.

THOMAS SIMPSON

HILDA GREENBAUM

ALBERT WOODHULL

FILED THIS _____ day of _____, 2009 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2009.
NOTICE OF DECISION mailed this _____ day of _____, 2009
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2009,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2009-00038, to allow for the installation of an oversized informational and directional sign, under Section 8.41 of the Zoning Bylaw, at Sunderland Road (Map 5A, Parcel 131, LI Zoning District) as requested in the application of W.D. Cowls, Inc., with the following conditions:

1. The sign shall be built in accordance with the plans prepared by W.D. Cowls dated May 2009 and revised July 2009, stamped approved by the Zoning Board of Appeals on July 16, 2009.
2. The sign shall be located on or at the property line in substantial accordance with the Location Map prepared by W.D. Cowls dated May 2009 (included in the packet of materials approved by the Zoning Board of Appeals on July 16, 2009).
3. The area at the base of the sign shall contain a landscaped area of 150% of the total area of the sign, in accordance with the landscape plan Detail dated May 2009 (included in the packet of materials approved by the Zoning Board of Appeals on July 16, 2009). The landscaping shall be permanently maintained for the life of the sign.
4. The sign shall be maintained in good condition including the prevention of visible degradation of the sign, such as faded color and/or peeling lettering.
5. The sign and the landscaped area shall be managed in accordance with the Management Plan prepared by W.D. Cowls (included in the packet of materials approved by the Zoning Board of Appeals on July 16, 2009).
6. The sign shall not be illuminated.
7. This permit shall expire five (5) years from the date of filing with the Town Clerk.

THOMAS SIMPSON
Amherst Zoning Board of Appeals

DATE